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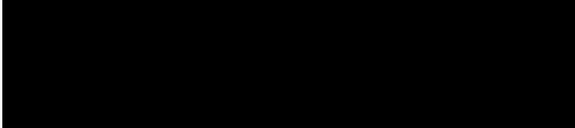
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U.S. Department of Homeland Security
20 Mass. Ave., N.W., Rm. 3000
Washington, DC 20529



U.S. Citizenship
and Immigration
Services

M1



FILE: [REDACTED]
[EAC 06 264 50140]

Office: VERMONT SERVICE CENTER

Date: DEC 07 2007

IN RE: Applicant: [REDACTED]

APPLICATION: Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The Director, Vermont Service Center (VSC), denied the application. The application is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who seeks Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. §1254.

The director denied the application because the applicant failed to establish she was eligible for late registration. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant asserts that she is eligible for late registration as the spouse of a TPS registrant and submits additional documentation.

Although a Form-G28, Notice of Entry of Appearance as Attorney or Representative, has been submitted, the individual named is not authorized under 8 C.F.R. § 292.1 or § 292.2 to represent the applicant. Therefore, the applicant shall be considered as self-represented and the decision will be furnished only to the applicant.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state as designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
 - (1) Registers for TPS during the initial registration period, announced by public notice in the *Federal Register*, or
 - (2) During any subsequent extension of such designation, if at the time of the initial registration period:
 - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
 - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;

- (iii) The applicant is a parolee or has a pending request for reparole; or
- (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

The phrase continuously physically present, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

The phrase continuously resided, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

Persons applying for TPS offered to Salvadorans must demonstrate continuous residence in the United States since February 13, 2001, and continuous physical presence since March 9, 2001.

The initial registration period for Salvadorans was from March 9, 2001, through September 9, 2002. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until March 9, 2009, upon the applicant's re-registration during the requisite time period.

To qualify for late registration, the applicant must provide evidence that during the initial registration period she fell within at least one of the four provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is on the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The record reflects that the applicant filed her initial TPS application on September 9, 2002 – on the last day of the initial registration period for Salvadorans. The applicant indicated on her application that she entered the United States, without inspection, in April 2000. In support of her application, the applicant submitted a photocopy of her birth certificate with translation and a letter from [REDACTED] stating that the applicant had been his neighbor in Bay Shore, New York, since May 2000. On February 4, 2004, the director requested that the applicant submit further evidence establishing her qualifying continuous residence and continuous physical presence in the United States. In response, the applicant submitted a letter from [REDACTED] stating that the applicant had worked for her since February 15, 2000; another letter from [REDACTED], this time stating that the applicant had been a tenant of his since February 2000; and, a remittance receipt from Gigante Express, dated August 2, 2001. On March 24, 2004, the director denied the application, finding that the applicant had failed to establish her qualifying continuous residence and continuous physical presence.

The applicant appealed to the AAO, and on September 30, 2005, the AAO dismissed the appeal.

The applicant filed the current application on September 22, 2006 – four years after the close of the initial registration period for Salvadorans. The applicant indicated on the application that this was her first application for TPS, but the director accepted it under the late initial filing provisions at 8 C.F.R. § 244.2(f). In support of her application the applicant submitted evidence that she married [REDACTED] applicant with Alien Registration number [REDACTED] on December 23, 1999, in El Salvador. She also submitted the identification page of her passport; a letter from [REDACTED] a copy of her Employment Authorization Document issued on July 9, 2003; the birth certificate of child, [REDACTED] born on September 28, 2001 in Islip, New York; the acknowledgement of paternity for her child, [REDACTED] born on October 31, 2003, at Southside Hospital; and various other documents relating to her continuous residence and continuous physical presence. The director denied the application because the applicant failed to establish she was eligible for late registration. The director also found that the applicant had failed to establish her qualifying continuous residence and continuous physical presence in the United States.

On appeal, the applicant asserts her TPS eligibility as the spouse of TPS registrant and submits additional documentation.

The applicant has established that she is the spouse of an alien who is currently eligible to be a TPS registrant and is, therefore, eligible to file a late application for TPS under 8 C.F.R. § 244.2(f)(2)(iv).

The application cannot be approved, however, because a late-filing spouse of a TPS-eligible applicant must meet the same continuous residence and continuous physical presence requirements as all other TPS applicants.

The letters submitted by the applicant cannot be given significant evidentiary weight as they contain unexplained inconsistencies. Doubt cast on any aspect of the applicant's proof may lead to a reevaluation of the reliability and sufficiency of the remaining evidence offered in support of the application. It is incumbent upon the applicant to resolve any inconsistencies in the record by independent objective evidence, and attempts to explain or reconcile such inconsistencies, absent competent objective evidence pointing to where the truth lies, will not suffice. *Matter of Ho*, 19 I&N Dec. 582 (BIA 1988). None of the documents provide full information and/or complete details relating to the applicant's continuous residence and continuous physical presence in the United States as required by 8 C.F.R. § 244.9(a)(2). Furthermore, the affidavits are not accompanied by evidence to corroborate the applicant's qualifying residence and continuous physical presence. The earliest reliable document submitted by the applicant is the birth certificate of her son, which shows she was present in the United States on September 28, 2001. All the other documents show presence after that date. The applicant claims to have entered the United States on November 1, 2000. It is reasonable to expect that she would have a variety of contemporaneous evidence to support the affidavits she submitted; however, no such evidence has been provided.

The applicant has not submitted sufficient credible evidence to establish that the continuous residence and continuous physical presence requirements of 8 C.F.R. § 244.2(b) and (c). The director's decision to deny the application for TPS on these grounds will be affirmed.

Beyond the decision of the director, the applicant has not submitted a photo identity document as required in 8 C.F.R. § 244.9(a)(11) to establish her nationality and identity. The application must be denied for this additional reason.

The application will be denied for the above stated reasons, with each considered as an independent and alternative basis for denial. An alien applying for temporary protected status has the burden of proving that he or she meets the requirements cited above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

ORDER: The appeal is dismissed.